

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

- - -
COMMONWEALTH OF)
PENNSYLVANIA)
vs.) No. 1178-2019
JAMES CARLO)
QUISENBERRY,)
DEFENDANT)
- - -

MOTION TO REVOKE BOND
IN THE ABOVE-ENTITLED CAUSE
BEFORE THE HONORABLE
GERALD R. SOLOMON, SENIOR JUDGE,
HELD ON AUGUST 15, 2019,
IN COURTROOM NO. 5

APPEARANCES:

Evan A. Lowry, II, Esquire,
Deputy Attorney General
Representing the Commonwealth

Shane M. Gannon, Esquire
Representing the Defendant

TRANSCRIPT OF PROCEEDINGS

Transcribed by:

Sara Necciai
Court Reporter

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P R O C E E D I N G S

THE COURT: This is the time set with regard to the Commonwealth's Motion to Revoke Bond in the matter of the Commonwealth of Pennsylvania versus James C. Quisenberry at No. MJ-27301-01-CR-50-219.

Is the Commonwealth ready to proceed?

MR. LOWRY: Yes, Your Honor.

THE COURT: Is the defendant ready to proceed?

MR. GANNON: Yes, Judge.

THE COURT: You may proceed.

MR. LOWRY: The Commonwealth will call Chief Jon Ridge to the stand, Your Honor.

(Jon Ridge, having been sworn, testified as follows:)

MS. PUSTOVRH: Please be seated and state your full name for the record.

THE WITNESS: Jon Ridge. I'm the Chief Adult Probation and Parole Officer in Washington County, Pennsylvania.

DIRECT EXAMINATION

BY MR. LOWRY:

Q. Mr. Ridge, I'm going to call your attention to August 10th of 2019. Did you issue a warrant for the defendant, James Quisenberry?

A. I released a warrant for Mr. Quisenberry. Yes.

1 Q. And when you say you released a warrant, can you
2 tell me what you mean by that?

3 A. Well, on all of our, what we call, tier three
4 defendants or offenders within our house arrest unit, we have
5 a presigned warrant, you know, for the purposes of safety,
6 really.

7 Q. Okay. And what's a tier three offender?

8 A. Tier three is offenders that we've identified as,
9 you know, potentially dangerous in the community or all
10 domestic violence offenders. Most of them are bond condition
11 -- or are bond individuals as opposed to adjudicated
12 individuals. So we have to get a presigned warrant for the
13 bond or bail individuals because I don't have the ability to
14 detain as I would on an adjudicated case.

15 Q. And in this case, did a Court of Common Pleas
16 Judge sign that warrant?

17 A. They did.

18 Q. And which judge signed that warrant?

19 A. It was the President Judge, Judge Katherine B.
20 Emery.

21 Q. And is the defendant in this case, James
22 Quisenberry, a tier three offender?

23 A. He is because it's a domestic violence case. Yes.

24 Q. What occurred on August 10th that caused you to
25 release the warrant?

1 A. Well, there was an exclusion zone breach. You
2 know, there was contact in regards to --

3 Q. I'm just going to stop you right there. When you
4 say "there was an exclusion zone breach," can you describe
5 what an exclusion zone is?

6 A. Well, the defendant in the case had gotten onto
7 the interchange at 279 Southpointe.

8 Q. So what -- are exclusion zones areas where
9 defendants that have the Buddi Clip are not permitted to go?

10 A. Yes.

11 Q. And, in this case, the defendant entered one such
12 exclusion zone?

13 A. He did.

14 Q. Where was that exclusion zone?

15 A. It was at the Southpointe 279 interchange -- or
16 I-79 interchange.

17 Q. And why does that exclusion zone exist around that
18 area?

19 A. Because the victim's home is within the two-mile
20 radius of that interchange.

21 Q. Okay. Now, I would assume that prior to -- or at
22 the time defendants are hooked up to the Buddi Clip, they are
23 informed of these exclusion zones?

24 A. Yes.

25 Q. And can you tell the Court if that happened with

1 the defendant in this case?

2 A. Well, Mr. Quisenberry and I, when he initially
3 came on, we had a lengthy discussion about not being in
4 Southpointe. He wanted to go to Southpointe pool. I said,
5 "You can't go to Southpointe pool." Anywhere in Southpointe
6 is going to be within the two-mile radius of the victim's
7 home.

8 Q. You may not know this. Do you know that the
9 defendant's bond was revoked and subsequently reinstated?

10 A. I do.

11 Q. Did the defendant have to come back to your office
12 to get rehooked up with the Buddi Clip?

13 A. He did.

14 Q. Were there any changes of the exclusion zones when
15 the defendant came back to your office to be --

16 A. Well, there were some more exclusion zones added.

17 Q. Okay.

18 A. But we wouldn't tell the defendant that we added
19 the exclusion zones.

20 Q. Okay.

21 A. I mean, clearly, the Southpointe exclusion zone
22 has been in effect since the beginning.

23 Q. Now, is there paperwork that the defendants fill
24 out when they sign up for the Buddi Clip?

25 A. Yes.

1 Q. And are defendants given an opportunity to write
2 any notes or anything in that paperwork?

3 A. Well, they initial and sign and date.

4 Q. Did the defendant write any additional information
5 on his Buddi Clip paperwork?

6 A. He did. He drafted that he refused to pay,
7 essentially. I mean, I can read it to you specifically. He
8 is not willing to pay for the Buddi Clip, and he did that on
9 both occasions, on the first hookup and the second hookup.

10 Q. Now, are you able to determine how close the
11 defendant was to the victim's home on August 10, 2019?

12 A. Pretty close. He was within probably .04 miles,
13 as the crow flies. I mean, you have to remember, that device
14 is, you know, a halo around a certain zone, and if you went
15 as the crow flies, I mean, it's very close. Anywhere in
16 Southpointe, quite frankly, is going to be very close.

17 Q. And do you personally know how quick an individual
18 can make up .4 miles?

19 A. Yes.

20 MR. GANNON: I would object to speculation,
21 Judge. How would he know this?

22 THE WITNESS: No, I actually didn't.

23 MR. GANNON: Is it by car, by foot?

24 THE COURT: Excuse me. Excuse me. Your
25 objection is what, Mr. Gannon?

1 MR. GANNON: To speculation, Judge. It's a
2 broad question.

3 MR. LOWRY: Judge, I can lay a foundation.

4 THE COURT: Lay a foundation, please.
5 Objection is sustained.

6 BY MR. LOWRY:

7 Q. After finding out the closeness of the defendant
8 to the victim's home, did you attempt to determine how
9 quickly a person can walk .2 miles?

10 A. Well, I actually did it previously.

11 Q. Okay.

12 A. But in testing our protocols and our processes for
13 the Buddi Clips, specifically in domestic violence cases, we
14 wanted to show how fast a person can be victimized in that
15 situation and how response times can be affected. So I
16 actually walked a distance of a prior case that we had to
17 show that you can walk, you know, a distance of 0.2 miles in
18 roughly four minutes, and that's an average walk.

19 Q. And is that something you also considered when
20 releasing the warrant for the defendant in this case?

21 A. Yes. I was concerned that another breach of that
22 exclusion zone would not afford enough time for a response.

23 Q. Okay. Did the -- is there any other reason that
24 you released the warrant on August 10th of 2019, for the
25 defendant?

1 A. That was my main concern.

2 Q. Okay.

3 A. You know, there seemed to be -- there seems to be
4 some questions in regards to veracity in this case. There
5 seems to be -- you know, there was a prior violation. You
6 know, I took those things into consideration.

7 Q. And when you say, "concern for veracity," what are
8 you referring to?

9 A. Well, you know, when the defendant was asked about
10 how many firearms he had and he said one, and it ended up
11 being three. You know, prior criminal history, there is a
12 prior criminal history. But yet, the defendant said he
13 didn't have any. I mean, those things affect how we take a
14 look at a case, and, you know, those things affect on what is
15 the real reason why a defendant may be exploring the
16 exclusion zone.

17 MR. LOWRY: Your Honor, I would offer for
18 cross.

19 CROSS-EXAMINATION

20 BY MR. GANNON:

21 Q. Officer Ridge, you stated it was a presigned
22 warrant. What do you mean by that?

23 A. It's a presigned warrant. The Judge presigns the
24 warrant.

25 Q. So you have a stack of warrants that are signed by

1 a judge that aren't issued yet?

2 A. No. We have the authority to release them.

3 Q. Okay. So you make the decision whether to detain
4 someone for a violation of bail?

5 A. In tier threes, yes.

6 Q. It's all within your discretion, not within the
7 Judge's discretion?

8 A. Yes.

9 Q. The exclusion zone, tell me how you explained the
10 exclusion zone to Mr. Quisenberry.

11 A. Well, I mean, it's a two-mile radius from the
12 victim's home. When he and I had that discussion, we talked
13 about Southpointe in general because there was a dialogue
14 about him going to Southpointe pool. I said, "You can't be
15 in Southpointe. You can't go to the Southpointe pool."
16 Anywhere in Southpointe is going to be within the exclusion
17 point.

18 Q. Two-mile radius, is that typical for all cases?

19 A. For some. Some, you know, it's really up to what
20 parameters we can set. I mean, some bond cases, the victim
21 and the defendant happen to live in such close proximity that
22 they've agreed to that. That wasn't the case in this one.

23 Q. And, in this case, they do live in the same ZIP
24 code; correct?

25 A. I don't know. I don't know what ZIP codes are

1 exactly in both of them.

2 Q. So you told Mr. Quisenberry it's a two-mile
3 radius?

4 A. Uh-huh.

5 THE COURT: Please answer yes or no.

6 THE WITNESS: Yes, two-mile radius.

7 THE COURT: Thank you.

8 BY MR. GANNON:

9 Q. Did you tell him, "It was as the crow flies"?

10 A. I don't recall if I did or I did not.

11 Q. Did you show him a map with a circle around it?

12 A. Well, not a map. But it's actually on the screen.

13 You could see the exclusion zone. It's a big, red circle
14 that goes around. Yeah.

15 Q. Did you give him a copy of that?

16 A. We don't give copies of that.

17 Q. So if it's a two-mile radius, he can drive down
18 I-79, one of the busiest highways in Pennsylvania; correct?

19 A. It would be very close.

20 Q. You said he was .4 miles away, so almost a half a
21 mile?

22 A. Roughly.

23 Q. Where exactly was he located?

24 A. Well, according to our graph, I mean, it looked as
25 if he got on right there at the I-79 interchange at

1 Southpointe.

2 Q. It just looked like he got on the exit?

3 A. Well, I mean, you could see -- you can follow his
4 GPS points, just like I'm sure you've seen before on any GPS.

5 Q. Do you have that information available right now?

6 A. I have a copy of it. I mean, you really can't see
7 it very well. But we can certainly make that happen if it
8 was necessary.

9 MR. GANNON: Do you mind if I take a look at
10 it, Your Honor? If I may approach?

11 THE COURT: You may approach.

12 THE WITNESS: There's three screenshots. I
13 just -- I marked that one because that is it. There is that
14 little square that's blocking it (indicating). But, I mean,
15 if we pull it up on the history -- well, here's this. You
16 can see this right here (indicating). I can give you the
17 history of it so you can take a look. That's just another
18 way of looking at the information. It shows you all of the
19 locations.

20 BY MR. GANNON:

21 Q. These are the violated locations?

22 A. Exactly.

23 Q. One violated location at Southpointe Boulevard?

24 A. Yeah.

25 Q. That would be the exit at Southpointe?

1 A. Yeah.

2 Q. Do you know if he was getting on the exit or
3 driving past it?

4 A. It looked as if, after looking at the information
5 in this diagram -- that -- he was bearing onto this road.

6 THE COURT: Excuse me. Bearing onto which
7 road?

8 THE WITNESS: I-79. Probably Pittsburgh,
9 north, I guess.

10 BY MR. GANNON:

11 Q. What is the distance from the exit Southpointe to
12 Judge Costanzo's home?

13 A. Well, that was hard for me to determine, but
14 that's what I mean. I estimated to be about 0.4 1miles, as
15 the crow flies.

16 MR. GANNON: Your Honor, may I approach?

17 THE COURT: You may approach.

18 (Whereupon, Defendant's Exhibit A was marked
19 for identification purposes.)

20 BY MR. GANNON:

21 Q. I am going to show what I will mark for
22 identification purposes as Defendant's Exhibit A. Take a
23 minute to look at that. This is a Google maps printout, and
24 I won't say the address in open court. But the top address,
25 is that the correct address of Judge Costanzo?

1 A. I believe so.

2 Q. And the bottom point is Southpointe Boulevard,
3 where the defendant was tracked?

4 A. Yes.

5 Q. What is the distance that Google maps set forth?

6 A. It says 2.3 miles.

7 Q. A lot farther than .4 miles?

8 MR. LOWRY: Objection, Your Honor. I believe
9 that's mischaracterizing the map in terms of what the most
10 direct route would be.

11 MR. GANNON: Your Honor, it's relevant because
12 this is the distance road-wise from Ms. Costanzo's house to
13 the highway. The officer testified that he wasn't sure if he
14 explained to Judge -- or Mr. Quisenberry that he told him it
15 was as the crow flies or road distances. So how is he
16 supposed to know where the exclusion zone is? It merely
17 shows that the distance is longer than two miles to get to
18 Southpointe Boulevard.

19 THE COURT: By the roadway, rather --

20 MR. GANNON: By roadway, Judge.

21 THE COURT: Are you conceding it's within two
22 miles?

23 MR. GANNON: No, it's not within two miles,
24 Judge. It's 2.3 miles.

25 THE COURT: You are saying by roadway?

1 MR. GANNON: Yes.

2 THE COURT: Is where he was within two miles of
3 the Judge's home?

4 MR. GANNON: As far as the crow flies?

5 THE COURT: Yes.

6 MR. GANNON: Oh, I'm not sure.

7 THE COURT: Then it's .4 miles?

8 MR. GANNON: I can't attest -- I'm just asking
9 because the officer answered he wasn't sure if he told
10 Mr. Quisenberry that the exclusion was as the crow flies.
11 That is the purpose of this question.

12 THE COURT: The Court understands the
13 objection.

14 MR. GANNON: Your Honor, at this time, I would
15 offer for admission of Defense Exhibit A.

16 MR. LOWRY: Judge, with my objection noted, I
17 have no objection to it's admittance.

18 THE COURT: Exhibit A is admitted.

19 (Whereupon, Defendant's Exhibit A was admitted
20 into evidence.)

21 BY MR. GANNON:

22 Q. Officer, you said there were other exclusion zones
23 added after Mr. Quisenberry was released a second time?

24 A. It's just places where the victim may be.

25 Q. And you didn't tell him about these exclusion

1 zones; correct?

2 A. No. And, I mean, I wouldn't -- that's a different
3 situation. He would have -- he would really have no reason,
4 I don't believe, to be in those exclusion zones. So it's
5 something that strategically I wouldn't tell a defendant in
6 that case.

7 Q. Would you issue a warrant for him being in that
8 exclusion zone?

9 THE COURT: Excuse me. What's the relevance of
10 that, Mr. Gannon?

11 MR. GANNON: Well, Judge, it goes to the
12 instruction. Part of the bail, under the rules of that, he
13 has to be instructed specifically on what he is allowed and
14 not allowed to do when there is nonmonetary conditions.

15 THE COURT: Whether or not he violated any of
16 these other zones is really not at issue in today's hearing.

17 MR. GANNON: I will move on, Judge.

18 BY MR. GANNON:

19 Q. Officer, with the restricted zone in question
20 today, did you give him any written instructions?

21 A. Yeah. I mean, he has several in regards to what
22 he can and can't do, signed through his house arrest system.

23 Q. Specifically to the restrictive zone?

24 A. Well, it says, "exclusion zones." I mean, you can
25 take a look at it, if you want. I mean, it's got -- in his

1 participant agreement, it clearly says about failure to
2 comply, tracking and maintenance, his curfew, exclusion
3 zones, "I will not travel to any prohibited locations listed
4 in my conditions of release from court order. I understand
5 that travel into such locations constitutes a violation of
6 the program and will be reported to my officer."

7 I mean, obviously, you know, these types of cases
8 are a little more extreme.

9 Q. What locations were listed?

10 A. Well, I specifically told him about Southpointe.

11 Q. Were any listed?

12 A. We don't list them. I mean, we go over that with
13 the individual.

14 Q. But the instruction says, "the exclusion zones
15 that are listed".

16 A. Well, I guess what you're saying is there. We go
17 over that, though, with them.

18 Q. And you said, "Don't go into Southpointe;"
19 correct?

20 A. Yeah. He and I talked. Southpointe is going to
21 be a violation just because of the distance.

22 Q. But the only evidence you have is that he drove
23 past the exit; correct?

24 A. Well, he drove onto the exit.

25 Q. He drove onto the exit?

1 A. Yes.

2 Q. You made the decision to issue the warrant?

3 A. I did.

4 Q. Did anyone call you to inform you that a breach
5 was made?

6 A. Well, yeah. Our staff was in contact with us. I
7 confirmed with my assistant chief. You know, we talked
8 about, you know, potential threats. You know, the case in
9 general.

10 Q. Who contacted you from your staff?

11 MR. LOWRY: Judge, I'm going to object as to
12 relevance. I don't know if --

13 THE COURT: Where are we going with this,
14 Mr. Gannon?

15 MR. GANNON: Well, Judge, I think it's
16 absolutely relevant because what I'm getting at is we can
17 present evidence that Mr. Quisenberry received a call asking
18 where he was, and the caller stated that Judge Costanzo
19 wanted a warrant issued for his arrest because her buzzer
20 went off. And the question is, Judge -- you know, we're
21 talking credibility. How many other cases would they come
22 arrest somebody on a Saturday night at their house for
23 driving on I-79, a half mile away from the individual's home.
24 So I am going towards credibility.

25 THE COURT: I am not interested in other cases

1 where they may or may not have taken action. I am interested
2 in this case. So let's stick to this case. The objection is
3 sustained.

4 BY MR. GANNON:

5 Q. Who is in charge of Washington County Adult
6 Probation?

7 A. I am.

8 Q. Who is in charge of you?

9 A. President Judge Emery.

10 Q. Do you do work for Judge Costanzo?

11 A. Do I do work for her?

12 MR. LOWRY: Objection, Your Honor. Relevance?

13 MR. GANNON: Judge, it goes --

14 THE COURT: Are we just fishing here, or are
15 you going someplace, Mr. Gannon?

16 MR. GANNON: I'm going to credibility, Judge.
17 If he feels that he has to make a decision because somebody
18 has authority over him, it affects his credibility.

19 THE COURT: As I understand his testimony,
20 there are a number of warrants that are signed -- presigned
21 in the event some violation occurs. As the President Judge,
22 I'm assuming that that duty falls to Judge Emery. So are you
23 saying that somehow he singled this case out? Is that where
24 we are going with this?

25 MR. GANNON: Yes, Judge.

1 THE COURT: Well, you can ask him that.

2 BY MR. GANNON:

3 Q. Do you do work for Judge Costanzo?

4 MR. LOWRY: Objection, Your Honor.

5 THE COURT: Objection sustained. He doesn't
6 work -- he works -- she is over him because he is the Chief
7 Adult Probation Officer, and she is the President Judge.
8 Whether it be her or some other person, it would be the
9 person in charge, is that correct, whoever the President
10 Judge is?

11 THE WITNESS: Correct. I work for the
12 President Judge of the 27th Judicial District of Washington
13 County.

14 MR. GANNON: I have no further questions,
15 Judge.

16 MR. LOWRY: Judge, may I approach?

17 THE COURT: You may approach.

18 MR. LOWRY: Thank you.

19 REDIRECT EXAMINATION

20 BY MR. LOWRY:

21 Q. And I have grabbed what you have previously
22 testified to as the maps that you used to determine an
23 approximate distance between where the defendant was driving
24 and where the victim's house was; is that correct?

25 A. Correct.

1 Q. And when did you pull these maps?

2 A. I pulled -- those maps were pulled down on Monday.

3 Q. And based on these maps, you came to the reasoning
4 or distance-wise that there was .4 miles between where the
5 defendant was on August 10th and the victim's home; is that
6 correct?

7 A. An estimation in a straight line. Yes.

8 MR. LOWRY: Judge, I would just mark these maps
9 as collectively Commonwealth's Exhibit I believe we are A,
10 and move them into admission, Your Honor.

11 MR. GANNON: I have no objection.

12 THE COURT: I believe yours was marked Exhibit
13 A.

14 MR. GANNON: Yes. I marked A.

15 MR. LOWRY: Okay. It's Exhibit 1, Your Honor.

16 THE COURT: Commonwealth's Exhibit 1 is
17 admitted.

18 (Whereupon, Commonwealth's Exhibit 1 was marked
19 and admitted into evidence.)

20 MR. LOWRY: No further questions, Your Honor.

21 THE COURT: Thank you. You may step down.

22 THE WITNESS: Thank you.

23 THE COURT: Anything further from the
24 Commonwealth, or are you resting?

25 MR. LOWRY: I rest, Your Honor.

1 MR. GANNON: Your Honor, I would call James
2 Quisenberry.

3 (James Carlo Quisenberry, having been sworn,
4 testified as follows:)

5 DIRECT EXAMINATION

6 BY MR. GANNON:

7 Q. Mr. Gannon, can you state your name for the
8 record?

9 A. James Carlo Quisenberry.

10 Q. What is your current address?

11 A. My current address is 119 Cider Lane, McMurray,
12 PA.

13 Q. Do you have any children?

14 A. Yes, two children.

15 Q. And are they to an ex-wife?

16 A. Yes.

17 Q. Where does your ex-wife live at?

18 A. 713 Centennial Avenue in Sewickley, PA.

19 MR. LOWRY: Judge, I am just going to object.
20 If the question -- I would stipulate to his children, his
21 wife -- because that all was established at the last hearing.
22 I don't know if this is going to anything else. I was just
23 trying to --

24 MR. GANNON: It's just going to his travels
25 that day, Judge. That's all. I am not getting into his

1 whole background, because that was obviously presumed.

2 BY MR. GANNON:

3 Q. You heard the testimony of Officer Ridge; correct?

4 A. Yes.

5 Q. How were you instructed regarding the restrictive
6 zones on the Buddi Clip?

7 A. That was a very loose conversation we had. In
8 fact, he made a specific comment that he made adjustments to
9 the zone that I could use the Southpointe exits. And while
10 we did discuss, the Southpointe pool was still up for
11 discussion. It was never specifically outside the zone. He
12 made the comments that it was several miles to drive to her
13 house from that point on the map, if you will. But he made
14 it quite clear that Southpointe exit was available for me to
15 use because I was employed at the time. You know, I had work
16 in West Virginia, several cities in West Virginia from
17 Morgantown south as well as up to Weirton and the north. I
18 worked in Washington, PA for that matter.

19 And, obviously, my children co-reside with their
20 ex -- or my ex-wife, their mother, up in Sewickley. So he
21 made sure that I could use that Southpointe highway exit.
22 Not Southpointe, itself, like, the neighborhoods in
23 Southpointe.

24 Southpointe itself is a gigantic community with
25 residences, commercial operations, as well as, like,

1 restaurants and things of that nature as well.

2 Q. Before your bond was revoked initially, did you
3 have the Buddi Clip on?

4 A. Yes, I did. Yes.

5 Q. Did you use the Southpointe exit during that time?

6 A. Every day.

7 Q. Did you have any issues?

8 A. Not once.

9 Q. Were you ever alerted to any issues?

10 A. Not once.

11 Q. On Friday or Saturday, August 10th, can you
12 explain to me what you did that day?

13 A. Is August 10th Saturday?

14 Q. Yeah. I believe it is.

15 A. Saturday I got up and took my children -- well,
16 Saturday evening, I guess it was, Saturday night. I had the
17 children all day, and I took them up to their mother's house
18 in Sewickley. So around 7:00, I want to say, or a little
19 before 7:00, we went to their mother's house in Sewickley.
20 You know, drove up 79, as I've done numerous times, including
21 the Friday before the Saturday in question. I took my child
22 to a dentist appointment Friday morning, same routes through
23 Southpointe exit to and from. Not one phone call regarding
24 the Buddi Clip, not one arrest or anything. So I had no
25 issues whatsoever on Friday until Saturday evening for some

1 reason. I was coming back through Sewickley -- through
2 Southpointe exit, not through Southpointe itself. And the
3 Southpointe exit is different than Southpointe. They are not
4 the same thing.

5 Q. Did you ever enter into Southpointe?

6 A. Never.

7 Q. What happened Saturday night?

8 A. Well, after I got off the exit, and as I always
9 have, since prior to my bond being revoked and reinstated, I
10 turned left and headed directly towards home. About, I don't
11 know, three minutes from my house, I guess, I got a phone
12 call from what turned out to be the Washington County
13 Probation Office. And a young gentleman was asking me, you
14 know, where I was. And she said, "Judge Costanzo's Buddi
15 Clip had gone off, and she was freaking out wanting to know
16 where I was."

17 MR. LOWRY: Objection, Your Honor. Hearsay.

18 THE COURT: Objection sustained.

19 BY MR. GANNON:

20 Q. Don't tell us what anyone said.

21 A. Oh, okay.

22 Q. Just -- you got the call from adult probation?

23 A. Yeah. Adult probation -- well, I'm going to say
24 what he said.

25 Q. What did you do after that?

1 A. Well, he asked me where I was. I said, "East
2 McMurray Road, and I went home."

3 Q. After that what happened?

4 A. Well, then about an hour later, a Peters Township
5 Police Officer showed up at my house and said adult probation
6 had sent him over to check on me and that they had told him I
7 said I wasn't home, which I never did say.

8 And I reiterated that I am not under house arrest,
9 was never advised that I was under house arrest, and I had
10 full reign, just to live my life, and then he said he would
11 like to see my vehicle.

12 I invited him in. I said, "Please do. Come on
13 in." Showed him my vehicle. He put his hand on the hood.
14 And I said, "It should be nice and hot. I just got back from
15 Sewickley taking my kids to my ex-wife's home."

16 Q. Let me stop you. Were you arrested at that point?

17 A. No, sir.

18 Q. When were you arrested?

19 A. About an hour after that, I'm watching TV at home,
20 doing absolutely nothing, abiding by the bond that -- you
21 know, the bond that the probation statute said I was getting,
22 just watching TV peacefully. And I got a rap, rap, rap on my
23 door, and three Peters Township Police Officers showed up and
24 said they had just received an arrest warrant that they were
25 asked to execute from the probation office about 9:30 at

1 night.

2 Q. From the time you got home to the time you were
3 arrested, did you ever leave at that point?

4 A. Never.

5 MR. GANNON: I have no further questions.

6 CROSS-EXAMINATION

7 BY MR. LOWRY:

8 Q. When you were hooked up to the Buddi Clip,
9 probation personnel explained to you restrictive zones;
10 correct?

11 A. Which time?

12 Q. The first time.

13 A. We did. And we discussed Southpointe was okay --
14 exit was okay.

15 Q. And when they told you about restrictive zones,
16 you knew that you could not go in to a restrictive zone when
17 you had the Buddi Clip attached to you; correct?

18 A. Not true. I was advised I would get a phone call
19 and have to leave if I set off her Buddi Clip.

20 Q. So you met with them and they talked to you about
21 restrictive zones, right?

22 A. Yeah. They said that, "Her Buddi Clip would go
23 off if you came into the zone."

24 Q. And you knew that the restrictive zone --

25 THE COURT: Excuse me. Excuse me. Could we

1 have names instead of they and them?

2 BY MR. LOWRY:

3 Q. Who did you talk to the first time you were there?

4 A. Chief.

5 Q. So Chief Ridge told you about these restrictive
6 zones; correct?

7 A. No. He told me about one.

8 Q. The restrictive zone that you entered; correct?

9 A. No. There was not a restrictive zone at that
10 time.

11 Q. The victim's house was not a restrictive zone at
12 the beginning of the case?

13 A. No. The Southpointe exit was available for my
14 use, and that's the only place that I went. So the answer to
15 your question is no, I did not enter a restrictive zone that
16 I was advised of.

17 Q. So you heard Chief Ridge testify that he was
18 concerned because you had previously recorded that you have
19 one firearm, when indeed you have four; is that right?

20 A. I have one at home.

21 Q. But you have four firearms; correct?

22 A. Not in my possession.

23 Q. Do you own four firearms?

24 A. I do.

25 Q. And you also -- I believe you actually testified

1 when I asked you that you didn't have a prior record, and it
2 is true that you have at least three summary convictions; is
3 that correct?

4 A. I testified I don't remember it.

5 MR. GANNON: I will object on two grounds.
6 One, irrelevant. We are here for only the violation. And
7 two, a summary conviction -- or a summary offense isn't a
8 criminal conviction.

9 THE WITNESS: Right.

10 THE COURT: Well, we are also here to test the
11 credibility of witnesses. The objection is overruled.

12 MR. LOWRY: Thank you.

13 BY MR. LOWRY:

14 Q. So you agree with me then when I asked about your
15 criminal record, you said that you didn't have one, and it
16 turns out that you have three summary convictions; correct?

17 A. I would imagine there are speeding tickets in
18 there as well that would count as summary, and I don't
19 remember any of them, sir. My answer to your question then
20 was, "No. I don't remember that."

21 Q. And you know that you have three summary
22 convictions; correct?

23 A. I didn't. I was not aware of that at the time.

24 Q. Would you like me to show it to you again, or are
25 you still saying you don't have them?

1 A. I may. I am asking -- your question was -- if you
2 could reiterate what your question was -- when you asked me
3 before, I did not know that I had three summary offenses.

4 Q. And then I said, now you know that you have them
5 because I showed you your criminal record.

6 A. Yeah. Just three summary offenses. That's it.

7 Q. Okay. So you are not denying that today?

8 A. Summary offenses.

9 Q. Okay.

10 A. Well established. Yes, sir.

11 Q. And you also had a different story about what
12 happened at Subway restaurant; correct?

13 A. No.

14 Q. Well, you heard the witness testify that you
15 attacked a juvenile at Subway restaurant, and you had a
16 different story; is that correct?

17 A. No.

18 Q. You didn't have a different story?

19 A. My recollection --

20 Q. So you attacked a juvenile at Subway restaurant?

21 A. No. My recollection was she said she wasn't
22 really paying attention because she was making sandwiches.
23 Under --

24 Q. Is that your -- you can -- is that your testimony?
25 That's your testimony? I'm asking you a question.

1 A. That's the testimony.

2 Q. Okay.

3 A. She said she didn't recollect. She wasn't paying
4 attention. She was making sandwiches. I did not attack
5 anyone.

6 Q. Can you explain to me why every time it benefits
7 you to have a different story or tell a lie, you do it?

8 MR. GANNON: I'm going to object, Your Honor.

9 THE COURT: Objection sustained.

10 MR. LOWRY: Judge, I have no further questions.

11 MR. GANNON: I have no additional questions.

12 THE COURT: So your testimony is that in
13 contravention to what the Chief Adult Probation Officer said,
14 you were told by him that you could use the Southpointe exit?

15 THE WITNESS: Yes, Your Honor. I used it many
16 times prior to the Buddi Clip being removed as well as --

17 THE COURT: I'm just saying -- I'm just going
18 as to what he told you.

19 THE WITNESS: Yes, sir. Before the Buddi Clip
20 being removed as well as the second Buddi Clip being put on.

21 THE COURT: And on the night in question, you
22 were going where?

23 THE WITNESS: I just dropped my kids off at
24 their mother's home, and I went straight to my house.

25 THE COURT: On Route 7- -- Interstate 79?

1 THE WITNESS: That's right. I went up 79 to
2 take them there and came down 79, the same route as I have
3 done a hundred times with the Buddi Clip on, Your Honor.
4 Nowhere near the accuser. Nowhere near. I worked hard to
5 get the bond reinstated. I would never violate your trust in
6 me to get that bond reinstated.

7 THE COURT: So then, if I am going to take what
8 you are telling me, then the Chief Adult Probation Officer is
9 not being truthful when he said -- when he testified under
10 oath that you were told that there was this two-mile zone and
11 you weren't to go into it?

12 THE WITNESS: That's correct, sir. That is
13 correct, Your Honor. He and I spoke specifically about the
14 exit was okay. We discussed, further, the pool with my
15 children and I. And we're trying to figure out -- and our
16 discussion was exactly about a schedule for Judge Costanzo
17 and I -- who could use the pool, because she also belongs to
18 the same pool. So we are trying to see how I could be able
19 to take my kids there and she could take her kids there as
20 well and not be near each other, Your Honor.

21 THE COURT: Well, you heard his testimony that
22 when the pool discussion came up, he told you "any place in
23 Southpointe."

24 THE WITNESS: That is factually inaccurate. We
25 discussed the fact that it was -- for the time being, stay

1 away until we can figure it out. I said, "I can do that for
2 now as long as I can use the highway."

3 THE COURT: So he testified falsely on that
4 issue also?

5 THE WITNESS: Your Honor, I'm being 100 percent
6 truthful with you as I would never have used --

7 THE COURT: I'm not --

8 THE WITNESS: I would never have used the exit
9 if I knew that it was not -- if it was in any kind of
10 exclusionary zone, as that's just the common sense exit to
11 take given the routes that I take from my children to go to
12 school up there. They have activities up there, tutoring up
13 there. So -- and I have 50 percent custody, so that's the
14 exit I always used and always have used, Your Honor.

15 THE COURT: Anything further, Mr. Gannon?

16 MR. GANNON: No, Judge.

17 MR. LOWRY: Nothing further.

18 THE COURT: Thank you. You may step down.

19 THE WITNESS: Thank you, Your Honor. I
20 appreciate your time.

21 MR. GANNON: Your Honor, I have no further
22 witnesses.

23 THE COURT: Any rebuttal testimony?

24 MR. LOWRY: No, Your Honor. I have no rebuttal
25 testimony.

1 THE COURT: Do you wish to make argument?

2 MR. LOWRY: Your Honor, I would just state that
3 consistently throughout this case, the defendant has chosen
4 to fabricate or outright lie or make up facts that perfectly
5 align to his story or perfectly align to him not doing
6 anything wrong or violating any bond conditions or owning
7 four guns when he only said he had one or about his criminal
8 history.

9 It is clear, based on the defendant's
10 interaction at Subway and this violation, that he cannot
11 conform himself to the rules and he can't follow his bond
12 conditions. The defendant is demonstrating for the Court
13 that he is unable to follow any and all conditions put on
14 him.

15 Now, Judge, you heard the defendant testify
16 that he was taking his children back home to his ex-wife's
17 house.

18 I submit that the defendant could have been
19 testing the Buddi system to see how close he could have got
20 to the Judge's house without being caught. He was pushing
21 it. He was testing the system to see. And when he got
22 caught, he then said, I was taking my children up to his
23 ex-wife's house.

24 Now, I will say that I am requesting for his
25 bond to be revoked at this time.

1 However, I do understand that the Court may
2 view this violation in a different light than the Subway
3 violation. And if this Court is so inclined as to grant bond
4 to the defendant again, I would ask for a zero tolerance
5 instruction from Your Honor and to instruct the defendant
6 that he is at no times to be anywhere near Southpointe, which
7 includes I-79 or the on-ramp to I-79 or anywhere in that
8 area.

9 That's all I have, Your Honor.

10 THE COURT: Mr. Gannon?

11 MR. GANNON: Your Honor, first, with respect to
12 the warrant itself, the fact that there are presigned
13 warrants aren't lawful in and of itself. The decision to
14 revoke a bond or revoke and release is up to the bail
15 authority, which is a Judge in this case, not the probation
16 office. He shouldn't have full authority to decide when
17 someone's bond is revoked.

18 It's my understanding that the entire bench in
19 Washington County has recused themselves from this case
20 because they cannot be unbiased, and I believe that includes
21 Judge Emery. So using a warrant with her signature, in my
22 opinion, by itself is unlawful.

23 And also, Your Honor, the bench warrant itself
24 is now past 72 hours. We are having this hearing today. I
25 filed an emergency motion. The laws state that the

1 conditions -- nonmonetary conditions of a bail bond must be
2 specifically explained on the bail itself. That wasn't done
3 in this case. Bail says he has restricted areas that are
4 listed. They weren't listed. It wasn't explained to him.
5 Mr. Quisenberry testified he traveled this route previously.
6 There was no testimony to contradict that notion.

7 And, Your Honor, the fact that the Commonwealth
8 relies upon three summary convictions should show what this
9 case is about. A summary conviction is not counted on their
10 prior record score, will not show up when you bring your
11 prior record through the Pennsylvania State Police. It's a
12 reach, Judge. If this case involved anyone other than a
13 victim as a Judge, it wouldn't have been prosecuted this way,
14 he wouldn't have been arrested on a Saturday night.

15 Judge, Chief testified specifically it takes
16 four minutes to walk .2 miles. That would take --
17 supposedly, according to their evidence, Mr. Quisenberry
18 walked .8 miles to Judge Costanzo's house from where he was.

19 THE COURT: You mean eight minutes?

20 MR. GANNON: Eight minutes. So they responded
21 approximately three hours later. So what response time are
22 we talking about? Obviously, they weren't so concerned he
23 was going to hurt her that they flew there that instance.
24 They wait hours later to approach his house when he's at
25 home. He never left his home. He cooperated.

1 THE COURT: What testimony was there they
2 waited hours later? I thought that someone went to his home,
3 his car was still warm.

4 MR. GANNON: He wasn't arrested at that point,
5 Judge.

6 THE COURT: No. He was not arrested.

7 MR. GANNON: I'm saying until he was arrested.

8 THE COURT: He could have been arrested until
9 the warrant was issued. The warrant came from an unbiased
10 source, not from Judge Emery. She presigned all of the
11 warrants. I directed that the warrant be issued on Saturday
12 night, shortly before 9:00 p.m.

13 MR. GANNON: Well, I didn't receive a copy of
14 the warrant, Judge.

15 THE COURT: No. I didn't sign it. I was told
16 that there was a presigned warrant by Judge Emery. The
17 question to me was, "Should it be issued?" I said, "Did he
18 violate the terms?" They said that he did, so I directed
19 that the warrant be issued. So it did come from an unbiased
20 source.

21 I am not biased in any way towards your client.
22 I don't know your client. I am a visiting judge here. As I
23 mentioned months ago, when I was assigned this case, I did
24 meet Judge Costanzo on one occasion at the midwinter meeting
25 of the Trial Judges' Association. I was introduced to her by

1 Judge Cordaro, who you know. I said hello to her. She said
2 hello to me, and that was basically it. And I have not seen
3 her since, other than when we have been in court.

4 MR. GANNON: I am not saying that this Court is
5 biased, Judge. I am arguing on the testimony that I heard.
6 I didn't hear any testimony that you issued the warrant. So
7 I was operating under the testimony that it was issued
8 directly from adult probation from a presigned stack.

9 In any event, Judge, the bond conditions still
10 have to be laid out specifically so Mr. Quisenberry knows
11 exactly where he can and can't go.

12 If the Court will release him and he is told he
13 cannot use that Southpointe exit, I can guarantee it he won't
14 use that Southpointe exit. He doesn't want to be
15 incarcerated away from his children.

16 THE COURT: Well, his testimony was he was
17 never stopped before for it. The testimony of the Chief
18 Adult Probation Officer was he was told that there was a
19 two-mile radius from the Judge's home. And he was within
20 that radius, whether it was the Southpointe exit or any place
21 else, he was told -- if I'm to believe Chief Probation
22 Officer's testimony, Southpointe was a no-no for him in any
23 fashion.

24 MR. GANNON: And he never traveled directly
25 into Southpointe, Judge. He used that exit before with no

1 problem.

2 THE COURT: Well, that's his testimony. And I
3 don't know -- that's the only testimony I have on that issue.

4 MR. GANNON: And that's why I'm arguing that.
5 If that's incorrect, they can track him on the Buddi Clip.
6 They could present evidence that he never used that exit.

7 But, Judge, the fact is, he -- the allegations
8 in this case -- calls went from August to January of 2019.
9 He wasn't placed on the Buddi Clip until March or April. So
10 there were two months there where he was unsupervised, and he
11 never tried to contact Judge Costanzo. He never went to her
12 home. That wasn't his intent. If he intended to hurt her,
13 he intended to harass her, he could have done it within those
14 two months, Judge. So I would say, that goes to show the
15 fact that this wasn't his intention. He was taking his
16 children home. He was coming back to his house.

17 THE COURT: Well, I don't know what his
18 intention was. But if I am to take your argument that I am
19 to discredit the testimony of the Chief Adult Probation
20 Officer of this county, when he testified under oath that he
21 specifically went over these matters with your client and
22 accept the word of your client -- is that what you are asking
23 me to do?

24 MR. GANNON: Well, Judge, even if you believe --
25 even if it's true that he went over, he still has to include

1 that in the bond conditions given to him. It has to be
2 specifically laid out according to the law. It can't be
3 orally given. It has to be specifically written out in
4 detail, any nonmonetary conditions. And there was testimony
5 that that wasn't done in this case.

6 Now, if the Court would grant him release on
7 bond and those things are specifically laid out, I can
8 guarantee you he would follow it to a "T" for the remainder
9 in this case.

10 But, Judge, I mean, that's, basically -- I
11 believe it's Rule of Criminal Procedure 527. It must be
12 specific. The bail authority shall state with specificity on
13 the bail bond any nonmonetary conditions. And that wasn't on
14 the bail bond itself, Judge.

15 On that basis, I ask that the motion be denied.

16 THE COURT: Does the Commonwealth care to
17 respond?

18 MR. LOWRY: Judge, I would just state that the
19 specific locations of the restricted zones were not listed on
20 the bond conditions. However, they were explained to the
21 defendant in person. And one of his bond conditions was to
22 comply with the Buddi Clip. That, in and of itself, in
23 addition to sitting down with the defendant, pointing to a
24 screen and saying, "You cannot enter this red zone" is
25 sufficient notice to the defendant that if he enters that

1 zone, that would be considered a violation of his bond. A
2 warrant would be issued for his arrest, and he would be
3 arrested. That was explained to the defendant.

4 Now, I understand that the rule says it must be
5 with specificity on the actual bail bond paperwork.

6 However, I think, when you break it down into
7 those specific -- it's impractical. It doesn't happen on any
8 case. It's more this is a condition, and then they explain,
9 here is a big, red dot on the screen. It's two miles around
10 the Judge's house. You cannot enter. There is no question
11 that the defendant was on notice that he could not enter that
12 area, and he entered that area.

13 This is, again, the defendant simply throwing
14 himself in the face of the law, disobeying his conditions,
15 and doing what he pleases. And if even assuming that this
16 Southpointe area was told to the defendant to be off limits,
17 I would argue that it shows Your Honor that the defendant, at
18 the very least, is pushing those limits. What reasonable
19 person would use the on-ramp at Southpointe to enter onto 79?

20 Defense Counsel said what a major highway 79
21 is, meaning there's tons of on-ramps and exit ramps. The
22 defendant had numerous choices. Why place himself, again, in
23 that situation? It's the exact same argument at the Subway.
24 He cannot conform himself to the rule of law.

25 That would be my argument, Your Honor.

1 THE COURT: I've thought about this case since
2 last Saturday night, and it seems like I have thought about
3 nothing but this case over the last months because all that
4 has gone on in it.

5 Mr. Quisenberry spent nearly two months in jail
6 already, under my order, and now another five or six days.
7 He is probably fast approaching what he would be sentenced to
8 if he just simply pled guilty or gone to trial and been
9 convicted.

10 However, I am quite concerned. It seems to me,
11 from the two hearings that I had, that Mr. Quisenberry plays
12 fast and loose with the rules that he should be playing by.

13 I am willing to consider, Mr. Gannon, house
14 arrest for your client where he would be restricted to his
15 home, not permitted to leave his home except for employment
16 purposes or hospital or doctors visits.

17 If your client is willing to agree to such, I
18 want you to work something out with the Commonwealth, and I
19 will consider signing a proposed order to that effect.

20 However, I consider him to, at the very least,
21 be a scofflaw with regard to the law and this Commonwealth.

22 In the meantime, the defendant's bond is
23 revoked and he is committed forthwith to the Fayette
24 County -- to the Greene [sic] County Prison. That order will
25 be handed down in writing.

C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me of the hearing of the above-cause, and that this is a correct transcript of the same.

/s/ Sara Necciai
Sara Necciai
Court Reporter

The foregoing record of the hearing of the above-cause is hereby directed to be filed.

/s/ Gerald R. Solomon, J.
GERALD R. SOLOMON, JUDGE